

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DOMINGO GERMAN MACAVILCA,

Plaintiff,

V.

EDWARD R. KANDLER, *et al.*

Defendants.

Case No. C08-5312 FDB/KLS

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
 - (2) This action is **DISMISSED without prejudice** prior to service for failure to state a claim. **This dismissal counts as a strike pursuant to 28 U.S.C. § 1515(g);** and
 - (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any Defendants who have appeared, and to the Hon. Karen L. Strombom.

DATED this 1st day of December 2008.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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